UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1335
6 August 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fifth session

SUMMARY RECORD OF THE 1335th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 3 August 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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GE.99-43576 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

1. The CHAIRMAN informed the Committee that a note had been received from the Jamaican mission asking the Committee to defer its review of Jamaica's implementation of the Convention which was to have taken place the following week.

2. Mr. GARVALOV, speaking as Country Rapporteur, said that he would reluctantly agree to the deferral if the Committee so wished.

3. It was so decided.

Tenth to thirteenth periodic reports of Haiti (continued) (CERD/C/336/Add.1)

4. At the invitation of the Chairman, the members of the delegation of Haiti took places at the Committee table.

5. Mr. LEBLANC (Haiti), continuing to reply to questions put at the previous meeting, recalled that the Government had acted to ensure compliance, within its own ranks, with the Convention and the provisions of the 1987 Constitution concerning racial discrimination, and to enforce or to adopt similarly complying legislation. The Government also played a major role in controlling or punishing private persons or groups which acted or expressed attitudes in violation of the Convention or the Constitution. Draconian measures taken to stamp out Fascist groups earlier in the century had been successful. Since then, isolated incidents of incitement to racism or ethnic slurs had inevitably occurred. In two recent such incidents, the Government and the civil institutions involved had stepped in quickly to punish them.

6. Concerning the legal remedies available to victims of racial discrimination, the Ministry of Justice had under President Préval drawn up a plan of action to give the population greater access to the justice system. Since 80 per cent of the people lived far from the courts and could not afford the high cost of bringing a court case, the plan of action had established an "itinerant justice" programme that would bring the judges to the people in far-flung rural areas; it had also set up a programme to train "legal practitioners", persons without full law degrees but with the necessary legal qualifications to act on behalf of victims. The practitioners were expected to be involved in about 97 per cent of the complaints to be brought. Once the plan of action was fully operational, the Government would be able to judge how significant an obstacle the previous lack of access to justice had been for the victims of racial discrimination.

7. With reference to the problem of population movements, an average of over 40,000 people in three years were estimated to have taken to the seas in an attempt to emigrate during the period of the coup d'état. Judging from the fewer than 1,000 per year who had been forcibly repatriated by other countries in the previous year, there had now been a significant improvement in that situation. Within Haiti, however, over 300,000 others had had in the past to flee areas of repression and had been left destitute in the process. The

Government had as yet devised no plan to help them resettle in areas where they could start economic activities that would enable them to improve their situation and the problem remained critical.

8. There were three main ethnic groups in Haiti: the blacks, accounting for 95 per cent of the population, the mulattos living mainly in the rural west and south and accounting for 4.7 per cent of the population, and the mainly urban whites constituting 0.3 per cent. Most of the children employed as domestic workers were blacks, although some were mulattos; and most were from very poor rural families and had often been sent off to more prosperous relatives who, rather than protecting them, used them as hired help.

9. As to what assistance the Committee could give the Government, it could help with a translation of the Convention into Creole for use in civics courses in the schools or in television and radio broadcasts. Eventually, the Government would appreciate help in setting up a committee to monitor the implementation of the Convention in Haiti.

10. The CHAIRMAN said that he believed the Committee could certainly recommend assistance with translation into Creole.

11. Mr. GARVALOV, referring to paragraph 53 of the report (CERD/C/336/Add.1), asked what was meant by religions and forms of worship that disturbed public order. Also, the failure to define the religious denominations in Haiti as encompassing Islam or the Eastern Orthodox Church, both often practised by persons who were ethnically different, seemed to belie the assertion of complete freedom of religion in the country.

12. The CHAIRMAN said it was not clear to him what was meant by the term "Reformed forms of worship".

13. Mr. LEBLANC (Haiti) pointed out that paragraph 53 spoke only of the "three major denominations". The practice of Islam was growing in Haiti and there were also Greek Orthodox and Mormon believers. All of them, who numbered no more than a few hundred, were free to practise their religions and set up religious establishments. Haitian law did, however, prohibit forms of worship that disturbed the peace and stipulated hours during which religious ceremonies could be held; it aimed particularly to prevent all-night Voodoo vigils that could be extremely disruptive of small neighbourhoods. The State was tolerant of any religion whatsoever, provided it respected the law.

14. Mr. de GOUTTES asked what status the Voodoo religion had in Haiti; and whether there had been any specific cases in which measures had been taken against abusive religious practices that caused public disturbance.

15. Mr. SHAHI asked whether the United Nations Civilian Police Mission in Haiti (MIPONUH), which had been set up to assist in the professionalization of the Haitian National Police, had led to any substantial improvement and had been cost-effective. Otherwise, it made no sense - as the Chilean experience had proved - to recommend United Nations assistance for police reform.

16. Mr. HUSBANDS (Secretary of the Committee) drew attention to the report on the situation of human rights in Haiti (A/53/355), which gave an assessment of the success of police reform in Haiti.

17. Mr. LEBLANC (Haiti) recalled that Voodoo was recognized, under the Constitution, as a religion, as was the status of Voodoo priests who had taken the appropriate vows. But any perversion by individuals invoking Voodoo rites for illegal deeds - for example, poisoning - gave grounds for prosecution. Referring to previous questions relating to the police, he pointed out that the State not only prosecuted police officers who abused their powers but was also ready to shoulder responsibility for the compensation of victims.

18. Mr. RECHETOV (Country Rapporteur) said he appreciated the replies and additional useful information provided by the delegation of Haiti but felt that the concluding statement had been somewhat abstract and failed to address all the questions raised by Committee members. One such question was that of reviewing the judicial system; another was that of the demographic situation, a matter raised in the Committee's three reviews. There was also a lack of information about acts of racial discrimination, particularly about any measures taken by the State to prosecute wrongdoers. He hoped that the understanding and goodwill shown by the Committee to the delegation of Haiti would find a response in the Haitian authorities' future collaboration.

19. Mr. LEBLANC (Haiti), referring to earlier observations on two cases of racist manifestations which had not been dealt with in the courts, said that the reason why no court action had been taken was that both incidents had been caused by foreign nationals, who had been sent out of the country immediately - in one case after expulsion from a private school.

20. He had tried to give some idea of the demographic situation, which was difficult to evaluate. The previous national census, conducted in 1984, had put the total population at roughly 7 million. A further census was to be taken in the year 2001, and it was hoped that more precise information could therefore be provided in the next periodic report.

21. With regard to reviewing the judicial system, an important factor was that in the past most of the population had lacked access to justice. Once legal aid became generally available, however, recourse to the law would become more widespread and the situation easier to monitor. Three approaches were envisaged for the system's reform. Firstly, the basic legal instruments - most of which, such as the Civil and Penal Codes, dated from the early nineteenth century - would be updated; a reform commission had been set up for that purpose. Secondly, institutions were being established to train a new generation of career judges, with the general aim of training some 600 during the next decade; 60 had already been trained. The programme's features would include competitive testing and high standards of salary and conditions so as to attract the best people. Thirdly, access to justice would be improved *inter alia* by means of itinerant magistrates; in addition, legal training would be provided for young people already working to protect human rights and efforts were being made to reach agreement with lawyers' associations about training in that profession.

22. Progress in those three approaches would, it was hoped, quickly help to allay the concerns raised in the Committee's questions, including the fear that persons frustrated at the lack of recourse to justice might take the law into their own hands.

23. Mr. RECHETOV (Country Rapporteur) said that he greatly appreciated the additional information just given, which clarified a number of matters of concern to the Committee and should perhaps have been given earlier. He thanked Mr. Leblanc for coming before the Committee, and felt that he would be the right person to have charge of the next periodic report on Haiti.

24. The CHAIRMAN thanked the delegation of Haiti for attending the Committee's current session. The Committee was well aware of the difficulties faced as a result of the situation in that country, and looked forward to studying Haiti's next periodic report.

25. The members of the delegation of Haiti withdrew.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 9) (E/CN.4/1999/16; CERD/C/55/Misc.5; CERD/C/55/Misc.19)

26. The CHAIRMAN, drawing attention to the list of agenda items that the Committee might be called upon to discuss at short notice (CERD/C/55/Misc.19), invited the Committee to consider the report of the Committee's Contact Group on the sessional open-ended working group of the Commission on Human Rights on the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (CERD/C/55/Misc.5).

27. Mr. GARVALOV, introducing the report of the Contact Group, said that the latter had consisted of Ms. McDougall, Mr. Yutzis and himself as Chairman. He reviewed the contents of the Contact Group's report, drawing attention to the fact that the Contact Group had convincingly explained the work of the Committee, including the studies that individual members had prepared for use by the Preparatory Committee. The United Nations High Commissioner for Human Rights, opening the session of the working group, had stressed the fact that the Committee had always maintained an ongoing dialogue with the States parties in order to ensure effective implementation of the International Convention. The representatives of two States - one of which was a party to the Convention - had commented that the Committee should not seek to go beyond its mandate; but the overwhelming majority of participant members, observers and non-governmental organizations (NGOs) had recognized the Committee's paramount importance. The report of the open-ended working group (E/CN.4/1999/16) reflected, inter alia, its decision to frame its deliberations on the document presented by the African Group as well as on the views and suggestions made by the participants, among which a prominent place was reserved for the Committee and its Contact Group. In view of the recognition of the Committee's essential role in the preparations for the World Conference, Committee members might consider it appropriate to discuss, at the current session, the preparation of substantive proposals to be put to the Preparatory Committee.

28. The CHAIRMAN thanked the members of the Contact Group for their work, and asked Mr. Garvalov which two countries had cautioned against the Committee's expanding its work beyond its mandate. The last paragraph of the report of the Contact Group called for the Committee to draw up an additional substantive proposal at its fifty-fifth session. Specifically, what kind of contribution would be appropriate?

29. Mr. GARVALOV replied that as far as he could recall the two States which had expressed the view that the Committee should adhere strictly to its terms of reference were Cuba and Turkey. As to the comment in the last paragraph of the report of the Contact Group, he would like to reconvene the Group with a view to formulating some suggestions.

30. Mr. DIACONU, commending the Contact Group's work, drew attention to the suggestion in the report that the Committee should prepare a background document surveying forms and manifestations of racial discrimination in each geographical region. The preparation of such a report would be an enormous undertaking. He welcomed the fact that the sessional open-ended working group had chosen to concentrate on the comprehensive and well-organized document prepared by the African group. Concerning the Committee's mandate, the fact that just two States had expressed the view that the Committee should adhere strictly to its terms of reference should not be misconstrued as an encouragement for the Committee to extend its mandate, which was already quite broad.

31. The CHAIRMAN said that, although Cuba and Turkey were entitled to express their opinions, the Committee, having taken note of them, should not dwell on the issue and should continue to do whatever it deemed necessary to prepare for the World Conference.

32. Mr. LECHUGA HEVIA said that he would contact the Ambassador of Cuba to try to explain the Committee's position and dispel any misunderstanding on the matter.

33. Mr. FERRERO COSTA said that, notwithstanding the important and useful information which had been circulated on the procedural aspects of preparations for the World Conference and the valuable work of individual members of the Committee, it was particularly important that the entire Committee as a single body should make a substantive contribution to the preparations. Perhaps the Contact Group or another member of the Committee could formulate a concrete proposal for discussion by the Committee as a whole.

34. The CHAIRMAN agreed. The Committee should wait for the Contact Group to discuss the matter fully and make a proposal, which would later be studied and adopted by the entire Committee.

35. Mr. de GOUTTES, thanking Mr. Garvalov for the report, said that he fully supported the proposal put forward by Mr. Ferrero Costa. What were the prospects for the work of the Contact Group and the open-ended working group during the month of August, when the Sub-Commission on the Promotion and Protection of Human Rights and the Committee would both be in session?

36. Mr. SHAHI said that the effective work of the Contact Group had ensured the Committee's role as a cornerstone of the World Conference, and called on the Committee to emphasize the practical implementation of measures against racism. Mr. Garvalov and Mrs. Sadiq Ali had submitted a very interesting paper on structural measures which could be taken to prevent racial discrimination. There was a real need to emphasize implementation of such measures. For example, very few countries indeed had adopted the standards advocated by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and other bodies for the revision of school and university textbooks. On the other hand, the fact that the Government of the United Kingdom had called for the establishment of a United Nations Rapid Reaction Force within the framework of the Security Council to act quickly to suppress massive violations of human rights was an encouraging sign and a significant step forward.

37. Mr. van BOVEN said that Commission on Human Rights resolution 1999/78 (paras. 55-59) placed considerable emphasis on the contribution of regional bodies to the preparations for the World Conference against Racism. In his opinion, that had been a pragmatic decision, due to the lack of resources available at the global level - i.e. from the United Nations itself - for the preparatory process.

38. One useful contribution which the Committee could very easily make to the preparations for the World Conference would be to provide the regional meetings with copies of the Committee's concluding observations, which would enable them to identify problems in the States parties concerned. For example, one recurring theme in the concluding observations was State parties' refusal to admit the existence of racial discrimination on their territory at all.

39. Any further deliberations on the Committee's input to the World Conference should take note of its decision 9 (53), adopted in 1998 (document A/53/18, para. 513). The decision proposed a number of issues for inclusion in the agenda of the World Conference, including the aftermath of slavery and colonialism, the impact of economic globalization and the treatment of migrants, refugees, asylum seekers and displaced persons.

40. Mr. SHAHI said that the Committee needed to know exactly which organizations would be responsible for convening the regional meetings. Most regions had a fairly obvious candidate - the European Union, the Organization of American States, the Organization of African Unity and the Arab League - but it was not clear which organization would take on the task in Asia. If no regional organization were able or willing to convene the meeting, would it be left to individual Governments or NGOs, or would the United Nations provide the necessary technical and financial resources?

41. The CHAIRMAN said that choosing a regional organization to convene the meeting was not necessarily a straightforward matter. In Europe, for example, it would be important to ensure that both Eastern and Western European countries were fairly represented. When the regional meetings had taken place, some kind of coordination process would be required in order to present their findings to the World Conference in a coherent form.

42. Mr. de GOUTTES said that the regional meetings were an important part of the preparatory process for the World Conference, and the relevant paragraphs of the Commission on Human Rights resolution clearly acknowledged the need for them. In fact, the Council of Europe had been designated as the body responsible for preparations for the World Conference for the European region, rather than the European Union. The Council of Europe represented both Eastern and Western European States.

43. He agreed with Mr. van Boven that the Committee's concluding observations should be made available to the regional meetings, but he suggested that what might be termed the body of "doctrine", notably in the form of general and other recommendations, which the Committee had built up over the years and was insufficiently well known might also provide valuable guidance as part of the Committee's contribution to the World Conference.

44. The CHAIRMAN expressed doubts about the fully representative membership of the Council of Europe.

45. Mr. SHERIFIS said that, although he felt that input to the World Conference at the global level was more important than input at the regional level, the General Assembly obviously considered it important to hold regional preparatory meetings, as it had indicated in resolution A/RES/53/132.

46. With regard to the Committee's own contribution to the preparations for the World Conference, he appreciated the efforts of members who had prepared background papers in their personal capacities and in their own time. The suggestion that those papers should be revised by the Committee as a whole and submitted as a contribution to the preparations for the World Conference was certainly a good idea, but he doubted whether it would be feasible in practice. He preferred Mr. van Boven's and Mr. de Gouttes' suggestion that the Committee's concluding observations and general recommendations should be submitted to the preparatory meetings, which would have the added merit of publicizing the Committee's valuable work among a wider audience. In his opinion, the United Nations Department of Public Information did not do enough to publicize the Committee's work.

47. Mr. GARVALOV thanked members for their comments, which would help the Contact Group in its further dealings with the open-ended working group.

48. Members had made various comments about the views expressed by the delegations of Cuba and Turkey in the open-ended working group that the Committee should adhere to its existing mandate and not seek to expand it by taking on a key role in the organization of the World Conference. His personal impression was that the two delegations' objections referred only to the Committee's proposed role in the preparations for the World Conference, and not to its core activities or the extra tasks it had taken on, such as its good-offices missions. The overwhelming majority of participants in the working group had considered it appropriate for the Committee to play a major role in the preparations for the World Conference.

49. The open-ended working group had discussed the best way of assessing States' efforts to combat racial discrimination at the regional and global levels. Many delegations had considered that the Committee was ideally

qualified to carry out such an assessment. The members of the Contact Group had pointed out that the Committee possessed invaluable experience in assessing the implementation of the Convention by States parties and was aware of both their weak and strong points. The proposed background document to be prepared by the Committee on contemporary forms of racial discrimination (see document CERD/C/55/Misc.5, p. 2) would be a study of the best practices prevailing in each region, rather than a list of criticisms. The idea had received strong support in the working group.

50. Mr. van Boven had talked about the responsibility of regional organizations for convening the preparatory meetings. In fact, as stated in paragraph 55 of Commission on Human Rights resolution 1999/78, the High Commissioner for Human Rights was called upon to help States and regional organizations in the convening of the meetings. The United Nations would not, therefore, be absolved of all responsibility.

51. There had been some discussion about how to decide which organization should be asked to undertake preparatory work for the World Conference in a particular region. In his opinion, the most representative regional organization in Europe was the Organization on Security and Cooperation in Europe, which included all European States except those of the former Yugoslavia, whose membership had been suspended.

52. The CHAIRMAN, speaking in his personal capacity, said that there were a number of further contributions which the Committee could make to the preparations for the World Conference. For example, it could provide a list of those States which had accepted the Committee's competence to examine allegations of racial discrimination from their nationals, under article 14 of the Convention. The Committee could point out that no State party had ever invoked article 11 of the Convention, in order to denounce the failure of another State party to implement the Convention's provisions. It might provide a list of those States which had not yet signed the Convention, and those which had signed the Convention but had never fulfilled their reporting obligations. On a more positive note, it could provide a list of States parties which had amended their legislation in the light of their dialogue with the Committee.

53. Mr. WOLFRUM suggested drawing up a list of States which had entered reservations to certain articles of the Convention and those which had withdrawn or amended their reservations.

54. Mr. FERRERO COSTA said that, in respect of article 14 of the Convention, it might be more useful to list those States which had not recognized the Committee's competence to consider allegations from individuals.

The meeting rose at 12.35 p.m.